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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,731	02/01/2002	Kevin E. Mahaffy	AAI-003	1683
36822	7590	07/05/2005	EXAMINER	
GORDON & JACOBSON, P.C. 60 LONG RIDGE ROAD SUITE 407 STAMFORD, CT 06902			CUFF, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/061,731

**Applicant(s)**

KEVIN E. MAHAFFY ET AL.

**Examiner**

Michael Cuff

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 20-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20020513.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

A

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-19, drawn to a vending apparatus.
- II. Claims 20-25, drawn to a method of vending age-restricted products.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus could be to vend products to customers who are identified as special or VIP customers.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with David Jacobson on 6/24/05 a provisional election was made with traverse to prosecute the invention of I, claims 1-19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 20-25 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 5-9, 11-13, 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Sehr (US 2001/0018660).

Sehr shows, figures 2 and 3, a method utilizing multi-service visitor cards.

Paragraph 0029 shows that remotely located automated vending machines are one possible use for the invention. Paragraph 0038 discusses the video camera capturing biometric data to be compared and used for verification. Paragraph 0051 show the scanning of ID and determining the age and physical appearance of the visitor.

Paragraph 0094 shows that a confirmation process can also be implemented by a human operator. Paragraph 0050 shows a two-way communication link for the purpose of exchanging audio, video, or any other data. (Audio and video communication uses synthetic speech.)

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sehr in view of Collier et al.

Sehr, as applied above, shows all the limitations except for showing animated characters as an interface and having a sobriety test.

The examiner takes Official notice that the video displays with animated characters is well known in the art and that one of ordinary skill in the art would make use of these standard items in order to take advantage reliable off-the-shelf items.

Based on the discussion above, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Sher system to incorporate video display animations with characters in order to take advantage reliable off-the-shelf items.

Collier et al. teaches a sobriety interlock to be used with a vehicle. Column 9, line 15 discusses that many types of machinery can be advantageously equipped with the invention in order to control the use of the machinery by those who are not sober.

Based on the teaching of Collier et al., it would have been obvious to one of ordinary skill in the art of controlling remote unsupervised mechanisms, at the time the

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invention was made, to modify Sher system to incorporate a sobriety test in order to control the use of the machinery by those who are not sober.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maloney et al. shows a system of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (571) 272-6778. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 6/24/05

Michael Cuff  
June 24, 2005